

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EXXON MOBIL CORPORATION,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO. 3:16-cv-2921-N

**APPENDIX TO PLAINTIFF EXXON MOBIL CORPORATION'S RESPONSE TO
DEFENDANT'S MOTION FOR LEAVE TO SUPPLEMENT WITNESS LIST**

Plaintiff Exxon Mobil Corporation ("ExxonMobil") submits this Appendix to its Response to Defendant's Motion for Leave to Supplement Witness List.

Exhibit	Description	Appendix Pages
1.	Declaration of William M. Katz, Jr.	1 - 3
1-A.	Excerpts of Transcript for the Deposition of Renee Gonzalez with Errata	4 - 18
1-B.	Excerpts of Transcript for the Deposition of Paige Merkle with Errata	19 - 42
1-C.	Excerpts of Transcript for the Deposition of Robert Jordan with Errata	43 - 60
1-D.	March 21, 2017 Letter from Cory Johnson to Emily Parker	61 - 63
1-E.	November 14, 2018 Letter from Johnson to Parker and Documents Referenced Therein	64 - 93

Respectfully submitted,

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**ATTORNEYS FOR PLAINTIFF
EXXON MOBIL CORPORATION**

EXHIBIT 1

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EXXON MOBIL CORPORATION,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO. 3:16-cv-2921-N

DECLARATION OF WILLIAM M. KATZ, JR.

1. My name is William M. Katz, Jr. I am of legal age and otherwise competent to make this declaration. I am a partner at Thompson & Knight LLP (“T&K”), and I am counsel of record in this case for Plaintiff Exxon Mobil Corporation (“ExxonMobil”).

2. All of the facts stated in this declaration are true and correct and are based on my personal knowledge. I acquired my personal knowledge during the course and scope of my work as counsel of record for ExxonMobil in this lawsuit.

3. I have personal knowledge of communications between ExxonMobil and the United States of America (“Defendant”) in this lawsuit, including letters and emails exchanged between T&K and Defendant’s counsel at the Department of Justice (the “DOJ”), which I have drafted, sent, received, or reviewed.

4. ExxonMobil produced the book-to-tax spreadsheet to Defendant on June 22, 2018. Mr. Cavagnolo’s name is listed on the top of the summary tab of the spreadsheet as its “source.”

5. Defendant has subpoenaed the following individuals to testify at trial: Paige Merkle, Renee Gonzalez, Robert Jordan, Robert Ylagan, Stephanie Malen, and Gary Thompson.

6. Defendant first expressed its desire to call Richard Cavagnolo to testify in the above-captioned matter when it filed its Motion for Leave to Supplement Witness List on May 20, 2019.

7. On May 24, 2019, I offered to produce Mr. Cavagnolo for a trial deposition in Houston on a mutual convenient date before June 17, 2019. On June 3, 2019, Defendant rejected this offer.

8. Attached to this Declaration are true and correct copies of the following:

- A. Excerpts of Transcript for the Deposition of Renee Gonzalez with Errata;
- B. Excerpts of Transcript for the Deposition of Paige Merkle with Errata;
- C. Excerpts of Transcript for the Deposition of Robert Jordan with Errata;
- D. March 21, 2017 Letter from Cory Johnson to Emily Parker; and
- E. November 14, 2018 Letter from Johnson to Parker and Documents Referenced Therein.

9. I declare under penalty of perjury that the foregoing is true and correct.

Executed in Dallas, Texas, on June 10, 2019.

A handwritten signature in black ink, appearing to read 'W. M. Katz, Jr.', is written over a horizontal line.

William M. Katz, Jr.

EXHIBIT 1-A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EXXON MOBIL CORPORATION, §
§
Plaintff, §
§
vs. § CASE NO. 3:16-cv-2921
§
UNITED STATES OF AMERICA, §
§
Defendant. §

*** ATTORNEYS' EYES ONLY UNDER A PROTECTIVE ORDER ***

ORAL VIDEOTAPED DEPOSITION

MS. RENEE E. GONZALEZ

December 5, 2018

ORAL VIDEOTAPED DEPOSITION OF MS. RENEE E.
GONZALEZ, produced as a witness at the instance of
the Defendant and duly sworn, was taken in the
above-styled and numbered cause on the 5th day of
December, 2018, from 9:35 a.m. to 4:06 p.m., before
Michelle Hartman, Certified Shorthand Reporter in and
for the State of Texas and Registered Professional
Reporter, reported by computerized stenotype machine
at the offices of Thompson & Knight, 811 Main Street,
25th Floor, Houston, Texas, pursuant to the Federal
Rules of Civil Procedure and the provisions stated on
the record or attached hereto.

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ALSO PRESENT:

Mr. Jim Ferguson, ExxonMobil
Mr. Mike Flores, videographer

INDEX

PAGE

MS. RENEE E. GONZALEZ

Examination by Mr. Johnson	6
Signature Page	154
Signature Page	155
Court Reporter's Certificate	156

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
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Exhibit 500	Form 1120X Amended U.S. Corporation Income Tax Return for ExxonMobil Corporation and Affiliated Companies for year ending 12/31/06, EM_06-09_0167663 to 03	28
Exhibit 503	April 13, 2013 1120X refund claim for 2009	150
Exhibit 504	Declaration of Renee Gonzalez	22
Exhibit 506	2006 Form 1120 U.S. Corporation Income Tax Return for ID 13-6186766	27
Exhibit 523	Plaintiff ExxonMobil Corporation's Objections and Response to Defendant's Interrogatory Number 22	142
Exhibit 524	ExxonMobil Corporation's Objections and Responses to Defendant's Interrogatory Numbers 24 through 27	113
Exhibit 527	ExxonMobil Corporation letter dated 11/20/15 to Wilkins of the IRS from Ms. Gonzalez	93

1	EXHIBITS (cont.)		
2	EXHIBIT	DESCRIPTION	PAGE
3	Exhibit 528	Fml.ftc.schedule1999 to 2016	81
4	Exhibit 529	Plaintiff ExxonMobil	25
5		Corporation's Objections and	
6		Answers to United States First	
7		Set of Interrogatories	
8	Exhibit 531	Excel spreadsheet,	112
9		EM_0609_0388404	
10	Exhibit 534	Excel Spreadsheet	52
11		EM_06_09_0455890.xlsx	
12	Exhibit 535	Form 3315 Application for	144
13		Change in Accounting Method for	
14		ExxonMobil Corporation ID	
15		13-5409005	
16			
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18			
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1 (All exhibits marked by Counsel for
2 the U.S. previously)

3 THE VIDEOGRAPHER: We are now on the
4 record. Please note that the microphones are
5 sensitive and may pick up whispering and private
6 conversations. Please turn off all cellphones or
7 place them away from the microphones as they can
8 interfere with the deposition audio. Recording will
9 continue until all parties agree to go off the
10 record.

11 My name is Mike Flores representing
12 Veritext Legal Solutions. The date today is December
13 5th, 2018. The time is approximately 9:35 a.m. The
14 deposition is being held at Thompson & Knight located
15 at 811 Main Street, Suite 2500, Houston, Texas, and
16 being taken by the counsel for the Defendant.

17 The caption of the case is ExxonMobil
18 Corporation versus United States of America. The
19 case is being held in the United States District
20 Court for the Northern District of Texas, Dallas
21 Division, Case Number 3:16-CV-2921. The name of the
22 witness today is Renee Gonzalez.

23 At this time the attorneys present in
24 the room will identify themselves and the parties
25 they represent.

1 MR. JOHNSON: Cory Johnson from The
2 Justice Department for Defendant United States.

3 MR. BLACKER: Jonathan Blacker for the
4 United States.

5 MS. KANYER: Elizabeth Kanyar for the
6 United States.

7 MR. SMELTZER: Joshua Smeltzer for the
8 United States.

9 MR. KATZ, JR.: Bill Katz here on
10 behalf of the Plaintiff ExxonMobil Corporation, and
11 the witness Renee Gonzalez. I'm here with my
12 partner, Mary McNulty, and also James Ferguson from
13 ExxonMobil.

14 THE VIDEOGRAPHER: And our court
15 reporter is Michelle Hartman, also representing
16 Veritext.

17 And will you please swear in the
18 witness.

19 MS. RENEE E. GONZALEZ,
20 having been first duly sworn, testified as follows:

21 EXAMINATION

22 Q. (BY MR. JOHNSON) Good morning.

23 A. Good morning.

24 Q. Could you tell us your name for the
25 record, please.

1 or a number's put on it?

2 A. I don't know.

3 (Exhibit 531 marked)

4 Q. (BY MR. JOHNSON) One of the -- marked
5 as our next exhibit, DX531, which is another Excel,
6 which we can look at on the screen, and that is Bates
7 numbered EM_0609_0388404. And I'll go to the first
8 tab. And here is the summary tab, and some of the
9 other tabs.

10 Is this something you recognize?

11 A. No.

12 Q. Okay. So you've never seen this
13 before?

14 A. No.

15 Q. Okay. Then you know what -- who
16 prepared it?

17 A. No.

18 Q. And you don't know what it was used
19 for?

20 A. No.

21 Q. At the top here it says, "Source:
22 Richard Cavagnolo." Do you know who that is?

23 A. I have heard of him, but never met him.

24 Q. Do you know what department or group
25 he's in at Exxon?

1 A. Yes.

2 Q. Where?

3 A. The Tax Reporting Analysis Center.

4 Q. Okay.

5 THE WITNESS: The stack is coming
6 down.

7 Q. (BY MR. JOHNSON) We have marked as
8 Exhibit 524, Ms. Gonzalez, a document entitled
9 "ExxonMobil Corporation's Objections and Responses to
10 Defendant's Interrogatory Numbers 24 through 27."

11 You've welcome to page through it, but
12 I wanted to ask: At the very last page -- hopefully
13 we have all the pages this time -- is that a
14 verification you've provided?

15 A. Yes, for response 27.

16 Q. Okay. So you weren't providing a
17 verification for any of the other responses?

18 A. No.

19 Q. Okay. Are there any other -- I'm
20 sorry.

21 A. I'm looking through it.

22 Q. Other than the -- the DFAs and Qatar
23 and the PSCs in Malaysia that we have been talking
24 about, are there any other transactions by Exxon that
25 that you're aware of that it has treated in the

1 THE WITNESS: I don't know.

2 MR. KATZ, JR.: Objection: Calls for
3 speculation.

4 MR. JOHNSON: Huh?

5 (Discussion off record)

6 MR. JOHNSON: Okay. Yeah, let's take
7 a short break.

8 THE VIDEOGRAPHER: Off the record at
9 3:52 p.m.

10 (Recess taken)

11 THE VIDEOGRAPHER: Back on the record,
12 4:06 p.m.

13 MR. JOHNSON: All right. Thank you
14 Ms. Gonzalez. I don't have anymore questions. Thank
15 you for coming in.

16 THE WITNESS: My pleasure.

17 MR. KATZ, JR.: And we will reserve
18 our questions. Thanks.

19 THE VIDEOGRAPHER: Off the record at
20 4:06 p.m.

21 (Proceedings concluded at 4:06 p.m.)

22

23

24

25

1 STATE OF TEXAS

2 COUNTY OF HARRIS

3
4 REPORTER'S CERTIFICATE

5 ORAL VIDEOTAPED DEPOSITION OF

6 MS. RENEE E. GONZALEZ

7 December 5, 2018

8
9 I, Michelle Hartman, the undersigned
10 Certified Shorthand Reporter in and for the State of
11 Texas and Registered Professional Reporter, certify
12 that the facts stated in the foregoing pages are true
13 and correct.

14 I further certify that I am neither
15 attorney or counsel for, related to, nor employed by
16 any parties to the action in which this testimony is
17 taken and, further, that I am not a relative or
18 employee of any counsel employed by the parties
19 hereto or financially interested in the action.

20 That the deposition transcript was duly
21 submitted on _____ to the witness or to
22 the attorney for the witness for examination,
23 signature, and returned to me by _____.

1 SUBSCRIBED AND SWORN TO under my hand and
2 seal of office on this _____ day of December, 2018.

3
4 
5

6 Michelle Hartman, CSR, RPR

Texas CSR 7093

7 Expiration: 12/31/19

Veritext Legal Solutions

8 Firm Registration No. 571

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9 Ft. Worth, Texas 76102

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A C K N O W L E D G E M E N T O F D E P O N E N T

I, Ms. Renee E. Gonzalez, do hereby acknowledge
I have read and examined the foregoing pages of
testimony, and the same is a true, correct and
complete transcription of the testimony given
by me, and any changes or corrections, if any,
appear in the attached errata sheet signed by me.

11/22/19

Date


Ms. Renee E. Gonzalez

Capital Reporting Company

1250 Eye Street, Northwest

Suite 350

Washington, D.C. 20005

(202) 857-DEPO

E R R A T A S H E E T

Case Name: Exxon Mobil Corporation v. United States Of America

Witness Name: Ms. Renee E. Gonzalez

Deposition Date: 12/5/2018

Job No.: 3112504

Page No. Line No. Change/Reason for Change

See attached errata sheet.


Signature

1/22/19
Date

RENEE E. GONZALEZ – ERRATA SHEET

Page 11, line 25 – change “James” to “Jaime” – transcription error

Page 12, line 20 – change “position” to “decision” – transcription error

Page 13, line 11 – change “of” to “and” – transcription error

Page 33, line 18 – change “due” to “to” – transcription error

Page 34, line 17 – change “in” to “and” – transcription error

Page 35, line 22 – change “capitalize” to “capitalized” – transcription error

Page 41, line 8 – change “foreigner” to “foreign” – transcription error

Page 56, line 20 – change “an” to “and” – transcription error

Page 61, line 25 – change “track” to “TRAC” – transcription error

Page 67, line 22 – change “assess” to “cess” – transcription error

Page 83, line 11 – change “Mobile” to “Mobil” – transcription error

Page 86, line 24 – change “honester” to “honest” – transcription error

Page 90, lines 10 and 11 – change “DCVM” to “NOGEI” – transcription error

Page 97, line 5 – change “bases” to “basis” – transcription error

Page 104, line 16 – change “U.S. Legal” to “U.S. liability” – transcription error

Page 126, line 9 – change “James” to “Jim’s” – transcription error

Page 130, line 3 – change “are” to “our” – transcription error

EXHIBIT 1-B

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EXXONMOBIL CORPORATION, §
§
Plaintff, §
§
vs. § CASE NO. 3:16-cv-2921
§
UNITED STATES OF AMERICA, §
§
Defendant. §

*** ATTORNEYS' EYES ONLY UNDER A PROTECTIVE ORDER ***

ORAL VIDEOTAPED DEPOSITION

MS. PAIGE M. MERKLE

December 6, 2018

ORAL VIDEOTAPED DEPOSITION OF MS. PAIGE M.
MERKLE, produced as a witness at the instance of the
Defendant and duly sworn, was taken in the
above-styled and numbered cause on the 6th day of
December, 2018, from 9:25 a.m. to 11:57 a.m., before
Michelle Hartman, Certified Shorthand Reporter in and
for the State of Texas and Registered Professional
Reporter, reported by computerized stenotype machine
at the offices of Thompson & Knight, 811 Main, Suite
2500, Houston, Texas, pursuant to the Federal Rules
of Civil Procedure and the provisions stated on the
record or attached hereto.

APPEARANCES

FOR THE PLAINTIFF:

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and Ms. Emily Parker
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ALSO PRESENT:

Mr. Jim Ferguson, ExxonMobil
Mr. Mike Flores, videographer

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25

INDEX

PAGE

MS. PAIGE M. MERKLE	
Examination by Mr. Johnson	5
Signature Page	87
Signature Page	88
Court Reporter's Certificate	89

EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
Exhibit 505	Affidavit of Paige Merkle	8
Exhibit 506	ExxonMobil Proprietary 2006 Form 1120	18
Exhibit 512	the 2006 1120 for ExxonMobil RasGas	43
Exhibit 521	1120 Form for ExxonMobil RasGas for 2009	64
Exhibit 523	Plaintiff ExxonMobil Corporation's Objections and Response to Defendant's Interrogatory No. 22	76
Exhibit 524	Plaintiff ExxonMobil Corporation's Objections and Responses to Defendant's Interrogatory Nos. 24 - 27	77
Exhibit 530	Excel spreadsheet EM_06-09_0456926	35
Exhibit 531	Excel Spreadsheet Bates EM_06-09_0388404	51

1 (All exhibits marked by Counsel for
2 the U.S. previously)

3 THE VIDEOGRAPHER: We are now on the
4 record. Please note that the microphones are
5 sensitive and may pick up whispering and private
6 conversations. Please turn off all cellphones or
7 place them away from the microphones as they can
8 interfere with the deposition audio. Recording will
9 continue until all parties agree to go off the
10 record.

11 My name is Mike Flores representing
12 Veritext Legal Solutions. The date today is December
13 6th, 2018. The time is approximately 9:26 a.m. This
14 deposition is being held at Thompson & Knight located
15 at 811 Main Street, Suite 2500, Houston, Texas,
16 and is being taken by counsel for the Defendant.

17 The caption of the case is ExxonMobil
18 Corporation versus United States of America. The
19 case is being held in the United States District
20 Court for the Northern District of Texas, Dallas
21 Division, Case Number 3:16-cv-2921. The name of the
22 witness is Paige Merkle.

23 At this time will Counsel please state
24 their appearance for the record.

25 MR. JOHNSON: Cory Johnson from the

1 Justice Department for the United States.

2 MS. KANYER: Elizabeth Kanyer, the
3 Justice Department.

4 MR. KATZ, JR.: William Katz here on
5 behalf of Plaintiff ExxonMobil Corporation, and the
6 witness, Paige Merkle.

7 MS. PARKER: Emily Parker, Thompson &
8 Knight, joining Mr. Katz.

9 MR. FERGUSON: Jim Ferguson,
10 ExxonMobil.

11 THE VIDEOGRAPHER: Our court reporter
12 today is Michelle Hartman.

13 At this time, would you please swear
14 in the witness.

15 MS. PAIGE M. MERKLE,
16 having been first duly sworn, testified as follows:

17 EXAMINATION

18 Q. (BY MR. JOHNSON) Good morning,
19 Ms. Merkle.

20 A. Good morning.

21 Q. Could you tell us your full name for
22 the record.

23 A. Paige Marie Merkle.

24 Q. And you're employed by ExxonMobil?

25 A. That's correct.

1 THE VIDEOGRAPHER: Back on the record,
2 10:49 a.m. Beginning tape two.

3 Q. (BY MR. JOHNSON) Okay. Ms. Merkle,
4 before we broke, you were describing sort of the
5 process of how the results of RL 1 and RL 2 are
6 reported up to RasGas, and I want to ask you to take
7 a look at what we're marking as DX531, which is again
8 not on paper.

9 A. No.

10 Q. It will be the Excel to your right on
11 the screen, and it is Bates stamped EM_06-09_0388404.
12 And again it has a number of tabs that I can scroll
13 through.

14 But is this something you've seen
15 before?

16 A. I've seen it.

17 Q. Okay. There's the summary tab. Is
18 that something you've seen before?

19 A. Yes, I've seen this.

20 Q. So you've seen all the different tabs
21 and scrolled through this Excel?

22 A. I have.

23 Q. And did you do that in connection with
24 this case?

25 A. Yes.

1 Q. Did you have any hand in preparing
2 this?

3 A. No.

4 Q. Do you know who did?

5 A. Yes.

6 Q. And who was that?

7 A. Richard Cavagnolo.

8 Q. And who is he?

9 A. He's a tax analyst at ExxonMobil.

10 Q. Is -- do you -- is he in the same group
11 you are or some other group or --

12 A. We're -- we're all in the same tax
13 department. So, like you say, I'm a -- he's an
14 analyst where I'm a subject -- I don't prepare
15 returns. He's preparing the returns.

16 Q. And what was the purpose of your review
17 of this?

18 A. To get ready for this case.

19 Q. Okay. To get -- get ready for your
20 deposition?

21 A. Correct.

22 Q. Okay. Had you looked at this before
23 you signed your affidavit, the declaration?

24 A. Yes.

25 Q. What -- what's your understanding of

1 what this Excel is intended to represent?

2 And I don't mean the particular tab
3 we're on. We can go by tab. But overall, what's
4 your understanding of what it's intended to
5 represent?

6 A. One of the questions was, you know,
7 where do you find the income associated with when we
8 were doing the lease treatment, and where would you
9 find it once you changed to CPP treatment.

10 Q. Okay.

11 A. So up there --

12 Q. All right. So let's just -- let's skip
13 the first tab, which is just an org chart.

14 A. Correct.

15 Q. We will go to the summary tab. And
16 then you'll see some numbers in line -- or Column A
17 off to the left.

18 A. Yes.

19 Q. Do you know what those are for?

20 A. Those are -- the RUs are what Exxon
21 terms the reporting unit. So 7018, that's Ras
22 Laffan 1 and 7008 is Ras Laffan 2. So those are the
23 partnerships that were in question. So 7085 is RL 3
24 and 7084 is Qatar Gas 2.

25 Q. Okay. And then behind 7018 there's

1 another number. Do you know what that is?

2 A. Yes. That's the reporting unit for
3 RasGas, Inc. -- ExxonMobil RasGas, Inc. That's the
4 owner of --

5 Q. Whose pro forma we were looking at
6 earlier?

7 A. We were looking at earlier, correct.

8 Q. Okay. So going over to the years at
9 issue, '06 through '09 -- well, yeah.

10 So going over '06 through '09 --

11 A. Uh-huh.

12 Q. -- and there it's below a headline that
13 reads "TPAs Files to Treat As Sales."

14 Do you see that?

15 A. Correct.

16 Q. Okay. And so what's indicated there
17 with regard to RL 1 on lines three and four and --

18 A. All right. So RL 1, 2006, it's saying
19 that when we filed the TPA, the -- the income was
20 reported originally as other income, and then the --
21 the increased gross receipts on the TPA.

22 Q. Do you know if the lines three and four
23 for the post-'06 through '09 show the original
24 treatment or the new treatment?

25 A. The original treatment is the 2006,

1 because that's how we filed it. It would have been
2 the light orange or tan or whatever you want to call
3 that.

4 Q. Okay. So in the original treatment for
5 '06, there was revenue -- a positive revenue number
6 included in other income, and then a negative number
7 for the royalty payments to the government?

8 A. Correct.

9 Q. Okay. And skipping over -- and this,
10 as you can see, I manipulated a little wider than
11 the screen, but we can go back and forth.

12 But this is the tab A --

13 A. Okay.

14 Q. -- 2006. Do you know what OFR 3548
15 RL 1, RL 2 stands for, the name of the tab?

16 A. No, I don't know what OFR stands for.
17 But the rest is 3548 and, again, the owner of RL 1
18 and RL 2.

19 Q. Do you know what's being represented
20 here in this -- this tab of the Excel?

21 A. All right. Well, it's starting off
22 with the financial audited income statements from
23 IFRS, and then they highlighted the royalties and
24 then --

25 Q. So is -- let me stop you there.

1 That's a snapshot of RL 1's financial
2 statement?

3 A. Right.

4 Q. And is that -- you've described for me
5 the starting point for the tax reporting.

6 Is that the snapshot of the starting
7 point?

8 A. In 2006? It's what was used to
9 establish the royalties. There's a -- if you notice
10 in the top corner there a three, it says it's IFRS,
11 which means it's international gap, and ExxonMobil
12 would have -- had the starting point of U.S. gap.

13 And so we have a YY, that's the actual
14 basis. But this is showing how we're getting our
15 royalties.

16 Q. Okay. So those are the royalties paid
17 under the DFAs?

18 A. Correct, under -- and this is under
19 IFRS, rules.

20 Q. Okay.

21 A. All right. So then -- well, anything
22 else you want to know?

23 Q. Have you looked at this tab before?

24 A. Yes.

25 Q. Okay. And you -- do you understand

1 what it's -- what it's doing, what's --

2 A. Yes.

3 Q. -- what these computations are?

4 A. Yes.

5 Q. And then so could you describe that for
6 me?

7 A. Well, can you go back to the left, and
8 we'll work our way across.

9 Q. Okay.

10 A. So the next step here it -- we'll say
11 columns, N through B, we're showing the sourcing. So
12 that 918 negative royalties, it's a part of the
13 total, but it's sourced specifically the FOGEI, and
14 if you --

15 Q. Okay.

16 A. So then -- but it's part of -- well,
17 before you leave.

18 Q. All right.

19 A. It's part of the -- if you were to add
20 up the 115, the 918 million and the 63 million, you
21 get the 1097, which is the other expenses shown here.
22 And this is labeled our Fisk and step eight. So what
23 the Fisk does is get -- helps us do our allocation,
24 our sourcing of our revenue and our taxes.

25 Step seven would have been taxes.

1 This is specifically step eight, which is talking
2 about how are we going to source it on the U.S. and
3 the income on -- for U.S. tax purposes.

4 Q. And when you mean -- you say "source,"
5 what do you mean?

6 A. You have to put your income into
7 different baskets, if we can call it that. So you
8 have U.S. source and foreign source.

9 And so on the foreign side, we are
10 using FOGEI and FORI and then U.S./passive and then
11 the other, something that's not going to use the
12 source base on the Fisk, because they have another
13 way of doing the sourcing.

14 Q. Okay. And so what is Fisk?

15 A. The Fisk is a -- a model of -- that was
16 developed with the IRS, the IRS agent's name was
17 Fisk.

18 Q. Oh.

19 A. So basically we're saying we're going
20 get a 15 percent rate of return on our financial FORI
21 assets, and that is a reasonable way of sourcing
22 revenue and expenses.

23 Q. Okay. All right. So continuing on?

24 A. All right. So we then reflect -- stop,
25 stop. Go back to the Fisk there. So there's the

1 1097 which is kind of AF -- maybe line 48 in the
2 Fisk. But anyway that what we're saying that billion
3 dollars of expenses, majority of it is FOGE, which
4 stands for foreign oil and gas extracted income, and
5 then some of it is FORI, 161 million. But that's,
6 again, the sourcing that was used on the return.

7 So let's see, does it say -- this is
8 which -- can you -- it says hears this RL 1. So the
9 step eight is the total, so the 4,652,000,000.

10 Do you see that on line 55?

11 Q. Uh-huh.

12 A. Well, then we go, well, it's
13 ExxonMobil's share of that four billion because we
14 don't own all of it. So that's where we say the
15 1.2 billion because it's part of our share. And if
16 you scroll down you'll see something very similar for
17 RL 2.

18 So step eight, again, is the
19 100 percent number, and the contingent payments are
20 located in the other expenses, and source mainly
21 FOGE. And --

22 Q. And FOGE is foreign source?

23 A. Foreign oil and gas extractive. So --

24 Q. In terms of -- in terms of sourcing
25 rules, it's foreign other than domestic?

1 A. Yes.

2 Q. Okay.

3 A. Okay. And so then there is RL 2 share
4 and somewhere at the bottom it should add it at all
5 together and come up with a total. You know. Maybe
6 not here. So scroll to the right, then.

7 Yeah, here is where we're going to get
8 it all added together. So they take the snapshot of
9 RL 2plus RL 1, and then here is the income that you
10 should see reported on our tax return.

11 Q. Okay. So all those steps for RL 1 and
12 RL 2and is -- and then the -- sort of the penultimate
13 calculation there, that one called "other income"?

14 A. That's where the majority of it is.
15 But, like you say, the interest expense that's from
16 this partnership. You can see the 89 million -- see,
17 there's the 89 million. And I think if you got into
18 the details on the IDC and the depreciation, that's
19 going to be 103 but it's going to be offset by an
20 ANCON adjustment. So you would have to see more
21 details to actually see that in the -- but anyway,
22 there's the interest income that you see reported,
23 the 18 million. So it's not just the 24 but the --

24 Q. Right.

25 A. -- essentially --

1 Q. Okay.

2 A. -- the majority of the income from the
3 partnership --

4 Q. But --

5 A. -- is there.

6 Q. -- there you see the computation for
7 the 2.4 billion, which we looked at earlier?

8 A. Correct.

9 Q. And that is -- that computation is the
10 result of 3.2 billion of gross receipts minus other
11 expenses, other U.S. tax adjustments, and something
12 called "reverse net loss"?

13 A. Right. Correct. But those other
14 expenses, you know, make sure you realize they
15 include those contingent payments --

16 Q. Okay.

17 A. -- or royalties.

18 Q. That's what I wanted to ask.

19 So the royalties are in that
20 799 million other expense number?

21 A. That's right.

22 Q. Okay. So the 2.4 billion --

23 A. Uh-huh.

24 Q. -- that shows up on line ten as other
25 income is the result of subtracting the royalties and

1 other expenses and a few other items from gross
2 receipts?

3 A. Correct.

4 Q. All after being --

5 A. -- calculated, you know, back over
6 here.

7 Q. Right. I guess, but all reduced to
8 reflect only Exxon's share.

9 A. Right, and we're -- right.

10 Q. Okay. You pointed that out earlier,
11 that there's a total number and then it's --

12 A. Cut to our share.

13 Q. -- set to our share. So then this
14 computation there that leads to 2.4 billion is
15 Exxon's share of gross receipts minus Exxon's share
16 of the royalties minus Exxon's share of the other
17 items they listed?

18 A. Right.

19 Q. Okay.

20 A. And so now we're doing it again, so --

21 Q. And then the other tabs are just for
22 the other years '07 through '09? Is your
23 understanding --

24 A. The same --

25 Q. -- the same basic process?

1 Ms. Merkle.

2 That is all the questions I have.

3 MR. KATZ, JR.: We will reserve our
4 questions to trial.

5 Thank you.

6 THE VIDEOGRAPHER: Off the record,

7 11:57 a.m.

8 (Proceedings concluded at 11:57 a.m.)

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1 STATE OF TEXAS

2 COUNTY OF HARRIS

3
4 REPORTER'S CERTIFICATE

5 ORAL VIDEOTAPED DEPOSITION OF

6 MS. PAIGE M. MERKLE

7 December 6, 2018

8
9 I, Michelle Hartman, the undersigned
10 Certified Shorthand Reporter in and for the State of
11 Texas and Registered Professional Reporter, certify
12 that the facts stated in the foregoing pages are true
13 and correct.

14 I further certify that I am neither
15 attorney or counsel for, related to, nor employed by
16 any parties to the action in which this testimony is
17 taken and, further, that I am not a relative or
18 employee of any counsel employed by the parties
19 hereto or financially interested in the action.

20 That the deposition transcript was duly
21 submitted on _____ to the witness or to
22 the attorney for the witness for examination,
23 signature, and returned to me by _____.

Page 90

SUBSCRIBED AND SWORN TO under my hand and
seal of office on this _____ day of December, 2018.



Michelle Hartman, CSR, RPR

Texas CSR 7093

Expiration: 12/31/19

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A C K N O W L E D G E M E N T O F D E P O N E N T

I, Ms. Paige M. Merkle, do hereby acknowledge
I have read and examined the foregoing pages of
testimony, and the same is a true, correct and
complete transcription of the testimony given
by me, and any changes or corrections, if any,
appear in the attached errata sheet signed by me.

1/31/2019

Date

Paige M. Merkle

Ms. Paige M. Merkle

1 Capital Reporting Company

1250 Eye Street, Northwest

2 Suite 350

Washington, D.C. 20005

3 (202) 857-DEPO

4 E R R A T A S H E E T

5 Case Name: Exxon Mobil Corporation v. United States Of America

6 Witness Name: Ms. Paige M. Merkle

7 Deposition Date: 12/6/2018

8 Job No.: 3112516

9 Page No. Line No. Change/Reason for Change

10
11
12
13
14
15
16
17
18
19
20
21 See attached errata sheet

22
23
24 Paige Merkle

25 Signature

1/31/2019

Date

PAIGE M. MERKLE – ERRATA SHEET

Page 7, line 3 – add “/” between downstream and chemicals – transcription error

Page 8, line 3 – change “the math and economics” to “for math and economics” – transcription error

Page 12, line 14 – change “bill” to “fuel” – transcription error

Page 16, line 19 – change “OG” to “QG” – transcription error

Page 32, line 7 – change “base” to “basis” – transcription error

Page 36, line 11 – add “we” before “reimbursed” – transcription error

Page 45, line 15 – add “we” before “prepared” – transcription error

Page 45, line 16 – change “entities” to “entries” – transcription error

Page 49, line 13 – change “back” to “book” – transcription error

Page 56, lines 11 and 12 – change “gap” to “GAAP” – transcription error

Page 56, line 13 – change “YY” to “YNY” – transcription error

Page 57, line 13 – change “the” to “to” – transcription error

Page 57, lines 22 and 23 – change “Fisk” to “Fiske” – transcription error

Page 58, lines 12, 14, 15, 17, and 25 – change “Fisk” to “Fiske” – transcription error

Page 59, line 2 – change “Fisk” to “Fiske” – transcription error

Page 59, lines 3, 21, and 22 – change “FOGE” to “FOGEI” – transcription error

Page 59, line 8 – change “hears this” to “here, it’s” – transcription error

Page 60, line 9 – change “RL2plus” to “RL2 plus” – transcription error

Page 60, line 12 – change “RL2and” to “RL2 and” – transcription error

EXHIBIT 1-C

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

EXXONMOBIL CORPORATION)

)

vs.) CASE NO. 3:16-cv-2921

)

UNITED STATES OF AMERICA)

CONFIDENTIAL INFORMATION SUBJECT TO PROTECTIVE ORDER

ORAL DEPOSITION

ROBERT JORDAN

February 14, 2019

ORAL DEPOSITION OF ROBERT JORDAN, produced as a witness at the instance of the Defendant and duly sworn, was taken in the above-styled and numbered cause on the 14th day of February, 2019, from 9:06 a.m. to 1:55 p.m., before Shauna Foreman, Certified Shorthand Reporter in and for the State of Texas, reported by computerized stenotype machine at the offices of Thompson & Knight, 811 Main Street, Suite 2500, Houston, Texas, pursuant to the Federal Rules of Civil Procedure and the provisions stated on the record or attached hereto.

APPEARANCES

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ALSO PRESENT:

Jim Ferguson
Chad Sillman

INDEX

PAGE

ROBERT JORDAN

Examination by Mr. Johnson4

EXHIBITS

NO.	DESCRIPTION	PAGE
Exhibit 1	Amended Exhibit A	7
Exhibit 2	QG2 (RU 7814)/RL3 (RU 7085)/RL1 (RU 7018)/RL2 (RU 7008)	11
Exhibit 3	Qatar Purchase Payments Spreadsheet	23
Exhibit 4	ExxonMobil Exploration & Producing Malaysia, Inc. (RU 0871) Spreadsheet	36
Exhibit 5	All PSCs Spreadsheet	44
Exhibit 6	1995 PSC Spreadsheet	45
Exhibit 7	2008 Production Sharing Contract	48
Exhibit 8	IFRS Financial Statements Spreadsheet	59
Exhibit 9	Qatar Transaction 2009 Organization Chart	67
Exhibit 10	Form 1065	80
Exhibit 11	Spreadsheet EM6-90459723	86
Exhibit 12	Binder (Retained by Mr. Johnson)	108

PREVIOUSLY MARKED EXHIBITS

Exhibit 506	(Previously Marked/Not Attached) 2006 Form 1120	38
Exhibit 521	(Previously Marked/Not Attached) Form 1120	33

1 ROBERT JORDAN,
2 having been first duly sworn, testified as follows:

3 EXAMINATION

4 Q. (BY MR. JOHNSON) Good morning.

5 A. Good morning.

6 Q. Could you tell us your name for the record?

7 A. Robert William Jordan.

8 Q. Okay. We met earlier off the record. My
9 name's Cory Johnson. I'm with the Justice
10 Department. I'll be asking you some questions this
11 morning.

12 Can you tell me where you're currently
13 employed?

14 A. ExxonMobil Corporation.

15 Q. Have you been deposed before?

16 A. Never.

17 Q. Okay. Well, I'm sure you've met with your
18 attorneys and gotten some ground rules, but let me go
19 over a couple.

20 As I said, I'm going to be asking you
21 some questions. It would be helpful for the court
22 reporter if you make sure I'm done with my question
23 before you start answering, and I'll try and do the
24 same and not start another question and make sure
25 you're finished with your answer.

1 A. Yeah, I don't know.

2 Q. Maybe you're better at this than I am.

3 A. I don't know. I recognize the --

4 Q. What number are we on? Maybe we can do it
5 with paper. If not, we'll take some time on the
6 Excels or something.

7 (Exhibit 8 marked)

8 Q. (BY MR. JOHNSON) We've marked as Exhibit 8,
9 Mr. Jordan, another Excel that was provided to us
10 that's one of the topics.

11 A. Yes.

12 Q. And I was trying to manipulate it
13 electronically but wasn't having too much success.
14 This is a printout of one of the tabs.

15 Do you recognize this?

16 A. I do.

17 MR. KATZ: Just so the record's clear,
18 can we just be real clear about which tab this is a
19 printout of and in which document?

20 MR. JOHNSON: Well, it is EM6-9388404.
21 Maybe this is it. There it is.

22 A. Yes.

23 Q. (BY MR. JOHNSON) So it's the Tab 5A, 2006
24 OFR. And this is something you've seen before,
25 Mr. Jordan?

1 A. I have.

2 Q. And what's your understanding of what it
3 is?

4 A. The spreadsheet was developed in order to
5 track out the return -- the original return treatment
6 and mainly used to track the royalties from financial
7 statements to the 1120 we talked about earlier today.

8 Q. Okay. So was this something -- this
9 particular file created back when the original return
10 was done, or was it created in connection with this
11 case or some other time?

12 A. In connection with this case.

13 Q. Okay. And do you know who prepared it?

14 A. Richard Cavagnolo.

15 Q. And I think you said it was prepared in
16 order to try to reconstruct where the original
17 reporting came from?

18 A. Reconstruct or trace, verify where the
19 numbers were reported.

20 Q. Okay. And so, the first page of Exhibit 8,
21 the paper copy, is an income statement, correct?

22 A. Correct.

23 Q. Is that for one of the JVCOs?

24 A. Correct.

25 Q. And it's got indicated there under

1 Expenses, royalties.

2 Do you see that?

3 A. I do.

4 Q. Okay. And the sum was at 918 million for
5 2006?

6 A. Correct.

7 Q. And is it within that number the payments
8 to Qatar are included?

9 A. Correct.

10 Q. The payments under the DFAs or this DFA?

11 A. Correct.

12 Q. Okay. And then towards the back -- six
13 pages from the back -- and I think I found it there
14 electronically.

15 Do you see that?

16 A. I do.

17 Q. That computation of other income?

18 A. That's the 2459 I mentioned earlier.

19 Q. Okay. So there's a lot of tracing leading
20 up to this point in this exhibit?

21 A. Yes, yes.

22 Q. We'll skip over that. But then can you
23 tell me what -- and I don't know why this is, but if
24 you look up on the electronics, there's a box by the
25 author that doesn't show up in the printout. But

1 could you tell me what's being represented there in
2 that other income computation?

3 A. The other income, the four numbers there?

4 Q. Yes, those four numbers and then there
5 appears to be a sum.

6 A. Yeah, the 2459 billion. That amount is --
7 and there's lots of data going back that will tie
8 those numbers out. There's \$3.5 billion of gross
9 receipts.

10 Q. 3.25?

11 A. 3.25 of gross receipts. There's other
12 expenses that are netted, and that amount includes a
13 royalty component to offset that. That's included in
14 gross receipts.

15 Q. So the other expense amount includes a
16 royalty amount plus some other expenses?

17 A. Yes.

18 Q. Okay.

19 A. If you go to the left, you can see it to
20 the dollar if you wanted to tie it all out. Then
21 there's other U.S. tax adjustments of \$5 million, and
22 then a reversal of 734,000 to get to a net number of
23 2,459 billion.

24 Q. And I think if we look at the
25 second-to-last page, there's a red arrow coming from

1 before where we see that 2.4 billion?

2 A. Correct.

3 Q. That seems to be a screen shot of the
4 pro forma 1120 for RasGas 2006?

5 A. Correct.

6 Q. Now going back to that page, the other
7 income comp that we were looking at, in the new
8 treatment the 3.2 billion of gross receipts doesn't
9 change?

10 A. Correct.

11 Q. Okay. But there is now fewer other
12 expenses because the royalty is taken out of the
13 other expenses there?

14 A. Royalties are taken out; but under the new
15 treatment, keep in mind that -- the royalties income
16 is included on gross receipts. They are offset on
17 the other expenses.

18 Q. Okay.

19 A. So to get to the purchase treatment,
20 the -- the amount of the royalties are included as
21 income.

22 Q. Right.

23 A. So the Line 10 item would increase by the
24 amount of the royalties, which is a component of the
25 799.

1 Q. Okay. And then instead of the royalty
2 being subtracted there, there would be a subtraction
3 somewhere for the interest component and the
4 depletion expense component?

5 A. Meaning on -- can you --

6 Q. In the new treatment, the royalty in its
7 old amount is no longer subtracted and instead that
8 is split into an interest component and a depletion
9 expense component for that year?

10 A. Correct. But I think under the corrected
11 treatment, the interest would be on a different line
12 number on the federal return and the depletion would
13 be on another line number on the federal return.

14 Q. Okay.

15 A. But in taxable income, Line 30 would
16 reflect those three items.

17 Q. Okay.

18 A. Recognizing the royalties, then there's the
19 interest and then the depletion part of it.

20 Q. So if we assume the royalty was 10, the
21 three components -- and let's assume that the
22 interest is 6 and depletable basis is 4 and the UOP
23 rate gets us 1 of completion that year, we would have
24 10 minus 7 under the new treatment?

25 A. Yeah, the corrected treatment would give

1 you the 10 minus the 7 to get you to the 3.

2 Q. Right. Instead of 10 minus 10, you would
3 have 10 minus 7?

4 A. Correct.

5 Q. Okay.

6 A. Because basically the royalty -- under the
7 lease treatment, the royalty income and the royalty
8 payments net to zero.

9 Q. And then the 3 that's not subtracted in
10 that first year is what we looked at earlier that's
11 sort of rolled over to the next year and subsequent
12 years?

13 A. The principal component, the depletable.

14 Q. Yes. Using my example with the \$3, that's
15 rolled over to the next year and then depleted at the
16 UOP rate that year and so on?

17 A. Yes. It's attached to the basis.

18 Q. Right. Okay. Now, this exercise that
19 we're looking at in Exhibit 8 I think you said was
20 done in connection with this case.

21 Was a similar exercise done originally
22 for the original reporting?

23 A. I don't follow your question.

24 Q. Well, you said Exhibit 8 was done in
25 connection with this case?

1 A. It was prepared for -- within the last year
2 or two. So yes.

3 Q. So it wasn't done at the time of Exxon
4 preparing its 2006 return?

5 A. No. But I mean, if you look at the various
6 tabs, you've got all years there. So it would have
7 been prepared in 2006, but they -- as information
8 taken from the various returns to consolidate it into
9 one Excel file.

10 Q. Okay. As I understand it, this document
11 was prepared recently for this case?

12 A. Okay.

13 Q. Is that right?

14 A. Yes.

15 Q. Okay. Was something similar done in order
16 for Exxon to prepare its original 2006 return?

17 A. Work papers would have been prepared. But
18 was it similar or identical to this? I don't know.

19 Q. Okay. Was -- were the JVCOs treated as
20 partnerships for purposes of Exxon's original 2006
21 return?

22 A. Yes.

23 Q. Okay. And were they treated that way for
24 2007 through 2009 on the original returns?

25 A. Yes.

1 issues that we need to get someone potentially
2 prepared to testify about or the issues we need to
3 give you a clear answer to.

4 MR. JOHNSON: Okay. Yeah, I can do it
5 by letter.

6 MR. KATZ: I think that's probably the
7 quickest way we can get this resolved.

8 MR. JOHNSON: Other than that, that's
9 it.

10 MR. KATZ: Okay. We'll reserve our
11 questions.

12 (Whereupon at 1:55 p.m. the
13 deposition was adjourned.)

14 (Signature not requested.)
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Page 117

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS

DALLAS DIVISION

EXXONMOBIL CORPORATION)

)

vs.) CASE NO. 3:16-cv-2921

)

UNITED STATES OF AMERICA)

REPORTER'S CERTIFICATE

ORAL DEPOSITION OF ROBERT JORDAN

February 14, 2019

I, Shauna Foreman, Certified Shorthand Reporter
in and for the State of Texas, hereby certify to the
following:

That the witness, Robert Jordan, was duly sworn by the officer and that the transcript of the oral deposition is a true record of the testimony given by the witness:

That the original deposition was delivered
to Cory A. Johnson.

That a copy of this certificate was served on
all parties and/or the witness shown herein on

I further certify that pursuant to FRCP Rule 30(f)(1), the signature of the deponent:

was requested by the deponent or a party

1 before the completion of the deposition and that the
2 signature is to be before any notary public and returned
3 within 30 days (or _____ days, per agreement of counsel)
4 from date of receipt of the transcript. If returned, the
5 attached Changes and Signature page contains any changes
6 and the reasons therefor;

7 _____ was not requested by the deponent or a
8 party before the completion of the deposition;

9 I further certify that I am neither counsel for,
10 related to, nor employed by any parties or attorneys
11 in the action in which this testimony is taken, and
12 further that I am not financially or otherwise interested
13 in the outcome of this action.

14 Certified to by me on this the 15th day
15 of February, 2019.

16 

18 Shauna Foreman, CSR

Texas CSR 3786

19 Expiration: 10/31/2021

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Tel. (817) 336-3042

22 Firm No. 571

ROBERT JORDAN – ERRATA SHEET

Page 29, line 19 – change “enumerator” to “numerator” – transcription error

Page 40, line 6 – change “zero, some gain” to “zero sum game” – transcription error

Page 44, line 14 – change “481” to “411” – transcription error

Page 61, line 18 – change “2459” to “2.459” – transcription error

Page 62, line 6 – change “2459” to “2.459” – transcription error

Page 62, line 23 – change “2,459” to “2.459” – transcription error

Page 63, line 14 – change “new” to “lease” – transcription error

Page 74, line 11 – change “in kind” to “in-kind” – transcription error

Page 74, line 12 – change “in kind” to “in-kind” – transcription error

Page 74, line 18 – change “in kind” to “in-kind” – transcription error

Page 79, line 3 – change “enumerator” to “numerator” – transcription error

Page 90, line 12 – change “point” to “foreign” – transcription error

Page 91, line 9 – change “FEC” to “FTC” – transcription error

Page 91, line 20 – change “Cost” to “Cross” – transcription error

Page 92, line 6 – change “FEC” to “FTC” – transcription error

Page 92, line 6 – change “in” to “/” – transcription error

Page 92, line 7 – change “Exploration” to “Expiration” – transcription error

Page 96, line 3 – change “1998 credits expired in 1993” to “1993 credits expired in 1998” – transcription error

Page 104, line 3 – change “Tory” to “Troy” – transcription error

Page 104, line 12 – change “Schrieter” to “Schreiter” – transcription error

Page 104, line 25 – change “Havermann” to “Havemann” – transcription error

Page 105, line 3 – change “Carl SchlmaZ” to “Karl Schmalz” – transcription error

Page 106, line 10 – change “Tori” to “Troy” – transcription error

Page 106, line 17 – change “Schrieter” to “Schreiter” – transcription error

Page 107, line 20 – change “Ian White” to “EY”

Robert W. Jordan

Mr. Robert W. Jordan

3/19/19

Date

EXHIBIT 1-D



U.S. Department of Justice

Tax Division

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Suite 400 Fax: 214-880-9741/9774

DAH:GH:CAJohnson
DJ 5-73-22415
CMN 2017100142

March 21, 2017

Via Email

Emily A. Parker
Thompson & Knight LLP
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, TX 75201

Re: *Exxon Mobil Corp. v. United States*
No. 3:16-cv-02921; N.D. TX

Dear Emily:

Pursuant to FRCP 26(a)(1)(A), this is to advise you that we have copies of certain documents which Exxon Mobil provided to the IRS during audit that we may use to support our defenses in this case. These include Forms 720, agreements concerning the Malaysian and Qatari transactions, and IDR responses. We also have tax returns and certified transcripts of account for the tax years at issue.

Additionally, although we do not yet know the identity of individuals likely to have discoverable information that we may use to support our defenses, we believe that employees or former employees of Exxon Mobil and the entities and counter-parties involved in the Malaysian and Qatari transactions may have such information. We anticipate that discovery will reveal those individuals.

Please do not hesitate to call me if you wish to discuss this further.

Sincerely yours,

s/ Cory A. Johnson

CORY A. JOHNSON
Senior Litigation Counsel

- 2 -

cc: Jonathan Blacker
Joshua Smeltzer
Kevin Kenworthy
Bill Katz
Mary McNulty
Meghan Nylin
George Hani

EXHIBIT 1-E



U.S. Department of Justice

Tax Division

717 N. Harwood Main Line: 214-880-9721
Dallas, Texas 75201 Attorney's Direct Line: 202-307-3046
Suite 400 Fax: 214-880-9741/9774

REZ:DIP:MMA:CAJohnson
DJ 5-73-22415
CMN 2017100142

November 14, 2018

Via FedEx

Emily A. Parker, Esquire
Thompson & Knight LLP
One Arts Plaza
1722 Routh Street, Suite 1500
Dallas, TX 75201-2533

Re: *Exxon v. United States*
3:16-cv--2921; N.D. Tx.

Dear Emily:

As you know, we believe that supplementation of our disclosures is not required, because any additional or corrective information was otherwise made known during the discovery process. *See* FRCP 26(e)(1)(A). Additionally, we feel that your motion to compel was inappropriate and inconsistent with the rules. Nevertheless, in the interest of avoiding further dispute and resolving this issue as quickly as possible, we provide the following additional disclosures in resolution of your motion, which you should now withdraw.

The individuals likely to have discoverable information that the United States may use to support its claims or defenses are those individuals listed in Exxon Mobil Corporation's Third Amended Disclosures (dated October 22, 2018), with the exception of David Foyt, and those listed in our letter of November 5, 2018. The United States also may rely on individuals, yet to be identified, from Exxon Mobil Corporation who provide testimony on the topics outlined in our recently served notice of deposition pursuant to FRCP 30(b)(6). The United States also may use any or all of the individuals identified in your response to Interrogatory No. 23 to support its claims or defenses.

- 2 -

As you know, we have not yet had the opportunity to depose any of these individuals. Accordingly, we refer you to your own descriptions of the knowledge they may have, or their prior interviews.

Additionally, in the Supplemental Complaint, Exxon alleges that the IRS did not comply with section 6751(b). We are puzzled that that could be an issue at this point. However, if Exxon intends to pursue some such argument, we may further rely on IRS employees Mary Ellen Brinkley-Diminich, Eileen Johnson and/ or Debra Tarr, who may be contacted through counsel for the United States. As you know, they have information about the initial determination of the section 6676 penalty and its approval. However, we are unsure whether any such information would be properly discoverable here, given the documents produced to date and Exxon's failure to identify any specific issue under section 6751(b). (Indeed, Exxon has known of their involvement in the penalty determination for months, and has not sought their depositions.) We are available to discuss whether any discovery is needed.

In addition to those previously disclosed, the documents the United States may use to support its claims or defenses are those currently produced, or yet to be produced, by Exxon in response to our requests for production of documents. We also may use the documents we previously produced to Exxon showing compliance with section 6751(b).

Sincerely yours,

s/ Cory A. Johnson

CORY A. JOHNSON
Senior Litigation Counsel

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

EXXON MOBIL CORPORATION,

Plaintiff,

v.

UNITED STATES OF AMERICA,

Defendant.

CIVIL ACTION NO. 3:16-cv-2921-N

EXXON MOBIL CORPORATION'S THIRD AMENDED DISCLOSURES

Exxon Mobil Corporation ("ExxonMobil") makes these third amended disclosures to the United States of America ("Defendant") in accordance with Federal Rule of Civil Procedure 26(a)(1).

A. The name and, if known, the address and telephone number of each individual likely to have discoverable information, along with the subjects of that information, that the disclosing party may use to support its claims or defenses, unless the use would be solely for impeachment.

1. Stuart McGill
Former President of ExxonMobil Gas & Power Marketing Company and Former Managing Director of Esso Production Malaysia, Inc.
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. McGill was the President of ExxonMobil Gas & Power Marketing Company and has knowledge regarding the liquefied natural gas ("LNG") operations in Qatar under various Development and Fiscal Agreements and Joint Venture Agreements between ExxonMobil (or its subsidiaries and affiliates) and the State of Qatar and Qatar Petroleum Company. Mr. McGill was also the Managing Director of Esso Production Malaysia, Inc. and has knowledge regarding petroleum operations under various Production Sharing Contracts in Malaysia and regarding ExxonMobil's (or its subsidiaries and affiliates') historical operations in Malaysia. Mr. McGill was involved in the decision to build the Terengganu Crude Oil Terminal in Malaysia.

2. Ron Billings
Former Vice President, LNG for ExxonMobil Gas & Power Marketing Company
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Billings was the Vice President, LNG for ExxonMobil Gas & Power Marketing Company and has knowledge regarding the LNG operations in Qatar under various Development and Fiscal Agreements and Joint Venture Agreements between ExxonMobil (or its subsidiaries and affiliates) and the State of Qatar and Qatar Petroleum Company. Mr. Billings further has knowledge regarding the negotiation and implementations of various LNG-related agreements involving ExxonMobil (or its subsidiaries and affiliates) in Qatar.

3. Steven Kane
Treasurer, ExxonMobil Upstream Ventures
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Kane is a Treasurer for ExxonMobil Upstream Ventures. During the relevant time period, Mr. Kane served as a Senior Finance Manager. Mr. Kane has knowledge regarding the financing of the LNG projects involving ExxonMobil (or its subsidiaries and affiliates) in Qatar. Mr. Kane also has knowledge regarding the Qatar LNG value chain.

4. Liam Mallon
President of ExxonMobil Development Company
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Mallon is the President of ExxonMobil Development Company. He was the Executive Chairman and Executive Director of Esso Malaysia Bhd. during the negotiation of the 2008 Production Sharing Contract. Mr. Mallon has knowledge regarding petroleum operations under various Production Sharing Contracts, the Main Principles Agreement, and related documents in Malaysia and regarding ExxonMobil's (or its subsidiaries and affiliates') historical operations in Malaysia.

5. Phil Dingle
Former President, ExxonMobil Gas & Power Marketing Company and Former
Chairman of Esso Production Malaysia, Inc.
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Dingle was the President of ExxonMobil Gas & Power Marketing Company and has knowledge regarding the marketing of LNG produced under various Development and Fiscal Agreements and Joint Venture Agreements between ExxonMobil (or its subsidiaries and affiliates) and the State of Qatar and Qatar Petroleum Company. Mr. Dingle also served as the Chairman of Esso Production Malaysia, Inc. and has knowledge regarding petroleum operations under various Production Sharing Contracts and related documents in Malaysia and regarding ExxonMobil's (or its subsidiaries and affiliates') historical operations in Malaysia.

6. Paige Merkle
Upstream Subject Matter Expert, Tax Reporting & Analysis Center, ExxonMobil
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Ms. Merkle is the Upstream Subject Matter Expert for the Tax Reporting & Analysis Center for ExxonMobil and, in that role, is responsible for providing general support and guidance to team members in the application of tax laws and filing requirements. Ms. Merkle has responsibility for advising on tax return preparation and assisting the audit group with tax refund claim submissions, when needed. Ms. Merkle has reviewed how the payments to the State of Qatar and to Petroliam Nasional Berhad ("Petronas") were originally reported on ExxonMobil's 2006-2009 U.S. tax returns and ExxonMobil's policies and procedures regarding preparation and filing of ExxonMobil's tax returns reflecting the transactions at issue in Qatar and Malaysia. Ms. Merkle also has knowledge of the classification of assets as foreign oil and gas extraction income assets and foreign oil related income assets in Qatar and Malaysia and more generally and the policies and procedures underlying such classification. Ms. Merkle also has knowledge regarding the model supporting the computations on which ExxonMobil's 2006-2009 claims for refund are based, including the computation of imputed interest on the payments to the State of Qatar and Petronas, cost recovery deductions, and the allocation of interest between U.S. and foreign source income to calculate limits on foreign tax credits.

7. Paul Sibal
Chief Process Engineer, ExxonMobil Production Company
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Sibal was the Chief Process Engineer for ExxonMobil Production Company and, in that role, was responsible for the long-term technical health of the organization in process engineering. Mr. Sibal formerly served as the Surveillance and Reliability Manager in ExxonMobil Production Company. Prior to that time, he was the LNG Technology Supervisor and then the Gas Technologies Research Manager at Upstream Research Company. Mr. Sibal has knowledge regarding gas and LNG production, natural gas liquids recovery, sour gas treating and sulfur recovery, LNG transportation and receiving terminal design and operation, and the LNG operations in Qatar involving ExxonMobil (or its subsidiaries and affiliates) in particular, including the LNG technology and the value added by the post-extraction processing of natural gas to convert it into LNG in Qatar.

8. Ayob Yahaya
Operations Facilities Engineering Advisor, ExxonMobil Exploration and Production Malaysia Inc. ("EMEPMI")
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Yahaya is an Operations Facilities Engineering Advisor for EMEPMI and, in that role, has been responsible for providing technical support for the operations of EMEPMI's offshore and onshore facilities in Malaysia. Mr. Yahaya has historical and current knowledge regarding petroleum operations for the various upstream operations in Malaysia.

9. David Norwood
Production Controller, ExxonMobil
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Norwood is the Production Controller for ExxonMobil. He served as the Controller for ExxonMobil Qatar in 2007 and as the Business Services Manager for ExxonMobil Qatar from 2008-2012. In his roles as Controller and Business Services Manager, Mr. Norwood was responsible for the financial reporting of ExxonMobil's (or its subsidiaries and affiliates') activities in Qatar. Mr. Norwood has knowledge regarding the transactions at issue in Qatar, including how the payments to the State of Qatar were reported on ExxonMobil's 2006-2009 financial books and ExxonMobil's policies regarding financial reporting for the transactions at issue in Qatar.

10. Gey Teng Lee
Tax Advisor, EMEPMI
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Ms. Lee is a Tax Advisor for EMEPMI and, in that role, has been responsible for providing tax support on direct and indirect tax matters for the ExxonMobil affiliates in Malaysia. She currently leads the Goods and Service Tax reporting work for the Malaysian affiliates as well as Tax advisory support for the Malaysian Business Support Center and Chemical affiliate in Malaysia.

11. Sri Halena Farid
ExxonMobil Information Technology ("EMIT") Business Analysis and Reporting ("BAR") Billing Supervisor, ExxonMobil
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Ms. Farid is the EMIT BAR Billing Supervisor for ExxonMobil. Ms. Farid worked in the Joint Interest Petronas Coordination Group of EMEPMI from 2009 – 2014 and served as a Joint Interest & Petronas Coordination Supervisor from 2012 – 2014. Ms. Farid was responsible for ensuring the quarterly production sharing contract ("PSC") accounts were prepared accurately and timely, audited by PwC, and submitted to Petronas. She was the focal point for Petronas audits conducted on EMEPMI's books and was responsible for ensuring proper control over the company's interest in operations under the PSCs.

12. Renee Gonzalez
Vice President and Assistant General Tax Counsel, ExxonMobil
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Ms. Gonzalez is a Vice President and the Assistant General Tax Counsel of ExxonMobil and, in that role, is responsible for legal counsel on ExxonMobil's U.S. federal and state income tax, property and excise tax controversies, state tax planning and legislative issues, and providing legal advice on discrete U.S. federal and state income tax issues. Ms. Gonzalez has knowledge about ExxonMobil's 2006 – 2009 claims for refund, the tax consequences of such claims to ExxonMobil, and the IRS examination of such claims, including the designation of such claims for litigation and the determination, assessment and payment of penalties. Ms. Gonzalez also has knowledge of ExxonMobil's historic and current foreign tax credit position. She also has knowledge of the Section 481 computations in the protective Forms 3115 Application for Change in Accounting Method filed on November 26, 2014.

13. Robert Stall
Valuation Principal, Ernst & Young
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Stall is a Valuation Principal and the U.S. Mining & Metals Leader for Ernst & Young and, in that role, is responsible for valuing business enterprises in numerous industries with a special focus on energy and the valuation of machinery and equipment and other tangible property assets. Mr. Stall has knowledge of the fair market value valuation methodology performed by Ernst & Young and reflected in the annual valuation reports prepared by Ernst & Young for ExxonMobil's 2006 – 2009 tax years for purposes of apportioning interest expense using the fair market value method.

14. Debra M. Tarr
Internal Revenue Service
c/o Cory A. Johnson
Senior Litigation Counsel
U.S. Department of Justice
555 4th Street N.W., Room 8810
Washington D.C. 20001
(202) 307-3046

Ms. Tarr is a Large Business & International (“LB&I”) Team Manager for the Internal Revenue Service. Ms. Tarr was responsible for auditing ExxonMobil’s claims for refund related to the 2006-2009 tax years. In Ms. Tarr’s capacity as LB&I Team Manager, Ms. Tarr oversaw the issuance of information document requests and summonses to ExxonMobil regarding ExxonMobil’s refund claims, participated in meetings with ExxonMobil regarding those refund claims, and has knowledge regarding the legal and factual bases on which ExxonMobil argued it was entitled to the refunds requested in this litigation during the audit. Ms. Tarr also has information regarding the penalties imposed under Section 6676 of the Internal Revenue Code for ExxonMobil’s 2006 – 2009 tax years.

15. David Foyt
Former Global Team Manager, Internal Revenue Service
c/o Cory A. Johnson
Senior Litigation Counsel
U.S. Department of Justice
555 4th Street N.W., Room 8810
Washington D.C. 20001
(202) 307-3046

Mr. Foyt was a Global Team Manager for the Internal Revenue Service. Mr. Foyt was responsible for auditing ExxonMobil’s claims for refund related to the 2006-2009 tax years. In Mr. Foyt’s capacity as Global Team Manager, Mr. Foyt oversaw the issuance of information document requests and summonses to ExxonMobil regarding ExxonMobil’s refund claims, participated in meetings with ExxonMobil regarding those refund claims, and has knowledge regarding the legal and factual bases on which ExxonMobil argued it was entitled to the refunds requested in this litigation during the audit. Mr. Foyt also has information regarding the penalties imposed under Section 6676 of the Internal Revenue Code for ExxonMobil’s 2006 – 2009 tax years.

The persons identified in Defendant’s Initial Disclosures may be included as persons whom ExxonMobil may use to support its claims in this lawsuit. ExxonMobil reserves the right to identify other persons or other subjects of information as discovery proceeds.

16. Jeff Sengele
Division Manager for Federal Income Tax Audit and State Income Tax Audit and Compliance, ExxonMobil
c/o Emily A. Parker
Thompson & Knight LLP
1722 Routh St., Suite 1500
Dallas, Texas 75201
(214) 969-1700

Mr. Sengele is the Division Manager for Federal Income Tax Audit and State Income Tax Audit and Compliance for ExxonMobil and, in that role, is responsible for ExxonMobil's U.S. federal and state income tax, property and excise tax controversies. Ms. Sengele has knowledge about ExxonMobil's 2006 – 2009 claims for refund, the tax consequences of such claims to ExxonMobil, and the IRS examination of such claims, including the designation of such claims for litigation and the determination, assessment and payment of penalties.

B. A copy of, or a description by category and location of, all documents, electronically stored information, and tangible things that the disclosing party has in its possession, custody, or control and may use to support its claims or defenses, unless the use would be solely for impeachment.

The following documents may be used by ExxonMobil to support its claims and have been provided or will be provided within a reasonable time after service of these disclosures:

1. ExxonMobil's consolidated Form 1120 U.S. Corporation Income Tax Return for taxable years 2006 through 2010, which are located in ExxonMobil's electronic files maintained by the Tax Reporting and Analysis Center ("TRAC");
2. ExxonMobil's Form 1120X Amended U.S. Corporation Income Tax Return ("Form 1120X") for taxable years 2006 through 2009, which are located in ExxonMobil's electronic files maintained by the Tax Law, Appeals and Litigation group ("TLAL");
3. ExxonMobil's Forms 843 Claim for Refund and Request for Abatement ("Forms 843") for taxable years 2006 through 2009, which are located in ExxonMobil's electronic files maintained by TRAC and TLAL;
4. Exxon Mobil Oil Corporation's Forms 720 Quarterly Federal Excise Tax Return for each quarter of taxable years 2008 and 2009, which are located in ExxonMobil's electronic files maintained by TLAL and by ExxonMobil's Indirect Tax group;
5. Correspondence with, and documents provided to or from, the Internal Revenue Service ("IRS") regarding the issues described in ExxonMobil's Complaint and Supplemental Complaint and the Answer and Response filed by the United States,

which are located in ExxonMobil's electronic files maintained by TLAL and/or which have been or will be obtained by ExxonMobil through the discovery process or the Freedom of Information Act;

6. The contractual agreements, including but not limited to Production Sharing Contracts and Joint Operating Agreements, between ExxonMobil (or its subsidiaries and affiliates) and Petronas and/or Petronas Carigali SDN BHD related to ExxonMobil's (or its subsidiaries and affiliates') exploration, development, production, transportation, processing, storage and marketing of crude oil and natural gas (and their products) in Malaysia, which are located in EMEPMI's electronic files or in EMEPMI's hard-copy files located in its office or in its secured offsite facility;
7. The contractual agreements, including but not limited to the Development and Fiscal Agreements and Joint Venture Agreements, between ExxonMobil (or its subsidiaries and affiliates) and State of Qatar, Qatar Petroleum, Qatar General Petroleum Corporation, and/or any of the joint ventures formed pursuant to the Joint Venture Agreements related to ExxonMobil's (or its subsidiaries and affiliates') exploration, development, production, transportation, processing, storage and marketing of condensate and LNG in Qatar, which are located in ExxonMobil's Qatari subsidiaries' electronic files and in hard-copy files maintained in ExxonMobil's Qatari subsidiaries' offices in Qatar;
8. Financing documents referring to or reflecting capital investments made in Qatar under the various Development and Fiscal Agreements and Joint Venture Agreements, which are located in ExxonMobil's Qatari subsidiaries' electronic files and in hard-copy files maintained in ExxonMobil's Qatari subsidiaries' offices in Qatar;
9. Any economic models used to analyze the value expected to be derived by ExxonMobil (or its subsidiaries and affiliates) from the investments made in Qatar under the various Development and Fiscal Agreements and Joint Venture Agreements, which are located in ExxonMobil's Qatari subsidiaries' electronic files and in hard-copy files maintained in ExxonMobil's Qatari subsidiaries' offices in Qatar;
10. Any economic models used to analyze the value expected to be derived by ExxonMobil (or its subsidiaries and affiliates) from the investments made in Malaysia under certain Production Sharing Contracts, which are located in EMEPMI's electronic files or in EMEPMI's hard-copy files located in its office or in its secured offsite facility;
11. Non-privileged internal memoranda, presentations, and accounting documents referring to or reflecting capital investments made under the various Development and Fiscal Agreements in Qatar, the value of the minerals up to, and including, the point of royalty calculation, and income from the sale of minerals and mineral products, which are located in ExxonMobil's Qatari subsidiaries' electronic files

and in hard-copy files maintained in ExxonMobil's Qatari subsidiaries' offices in Qatar;

12. Non-privileged internal memoranda, presentations, and accounting documents referring to or reflecting capital investments made under the various Production Sharing Contracts in Malaysia, the value of the minerals up to, and including, the point of royalty calculation, and income from the sale of minerals and mineral products, which are located in EMEPMI's electronic files or in EMEPMI's hard-copy files located in its office or in its secured offsite facility;
13. The Forms 3115 Application for Change in Accounting Method filed on November 26, 2014 and correspondence with, and documents provided to or from, the IRS regarding such Forms 3115, which are located in ExxonMobil's electronic files maintained by TLAL;
14. For tax periods ending December 31, 2006, 2007, 2008, and 2009, IRS Forms 4340, Certificate of Assessments, Payments and Other Specified Matters, and IRS Account Transcripts, including the MFTRA-C version, for Form 1120 and Civil Penalty, which are located in ExxonMobil's electronic files maintained by TLAL;
15. Documents reflecting the treatment of the payments to the State of Qatar and to Petronas on ExxonMobil's financial books for 2006 – 2009, which are located in ExxonMobil's files maintained in hard copy and electronically by EMEPMI and ExxonMobil's Qatari subsidiaries, and which are maintained electronically by TRAC;
16. The closing agreement between the IRS and ExxonMobil regarding the apportionment of interest under the fair market value methodology for ExxonMobil's 1989–2009 tax years and any exhibits thereto (the "Closing Agreement") and any correspondence with, and documents provided to or from, the IRS regarding the Closing Agreement and documents related to the apportionment of interest expense between U.S. and foreign source income for ExxonMobil's 2006 – 2009 tax years, which are located in ExxonMobil's electronic files maintained by TLAL and TRAC;
17. IRS documents relating to the penalties at issue in the case, including documents referring to or reflecting the absence of written managerial approval of the penalties, which are located in ExxonMobil's electronic files maintained by TLAL and TRAC and/or which have been or will be obtained by ExxonMobil through the discovery process or the Freedom of Information Act;
18. IRS documents, including internal IRS communications, regarding the issues described in ExxonMobil's Complaint and Supplemental Complaint and the Answer and Response filed by the United States, which are located in ExxonMobil's electronic files maintained by TLAL and TRAC and/or which have been or will be obtained by ExxonMobil through the discovery process or the Freedom of Information Act; and

19. Documents produced in discovery by any party.

ExxonMobil reserves the right to identify other documents disclosed during discovery by any party or documents it subsequently determines are relevant to disputed facts in this action.

C. A computation of any category of damages claimed by the disclosing party, making available for inspection and copying as under Rule 34, the documents or other evidentiary material, unless privileged or protected from disclosure, on which each computation is based, including materials bearing on the nature and extent of injuries suffered.

ExxonMobil paid the total tax assessed for taxable years 2006 through 2009 as follows:

<u>Taxable Year</u>	<u>Tax Paid</u>
2006	\$3,695,187,422
2007	\$3,893,091,559
2008	\$1,741,428,305
2009	\$ 139,912,688

By letter dated June 26, 2014, ExxonMobil timely submitted Form 1120X for 2006 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of federal income tax of \$264,720,803 plus statutory interest.

By letter dated June 26, 2014, ExxonMobil timely submitted Form 1120X for 2007 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of federal income tax of \$297,976,031 plus statutory interest.

By letter dated April 13, 2015, ExxonMobil timely submitted Form 1120X for 2008 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of federal income tax of \$652,852,400 plus statutory interest.

By letter dated April 13, 2015, ExxonMobil timely submitted Form 1120X for 2009 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of federal income tax of \$138,971,996 plus statutory interest.

ExxonMobil paid the penalties assessed for taxable years 2006 through 2009 as follows:

<u>Taxable Year</u>	<u>Penalties Paid</u>
2006	\$52,944,161
2007	\$59,595,206
2008	\$81,771,720
2009	\$13,215,459

By letters dated September 23, 2016, March 3, 2017 and May 9, 2017, ExxonMobil timely submitted Forms 843 for 2006 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of penalties of \$52,944,161 plus statutory interest.

By letters dated September 23, 2016, March 3, 2017 and May 9, 2017, ExxonMobil timely submitted Forms 843 for 2007 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of penalties of \$59,595,206 plus statutory interest.

By letters dated September 23, 2016, March 3, 2017 and May 9, 2017, ExxonMobil timely submitted Forms 843 for 2008 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of penalties of \$81,771,720 plus statutory interest.

By letters dated September 23, 2016, March 3, 2017 and May 9, 2017, ExxonMobil timely submitted Forms 843 for 2009 with the Internal Revenue Service Center in Ogden, Utah, claiming a refund of penalties of \$13,215,459 plus statutory interest.

ExxonMobil seeks damages in the amount of the total of the claims for refund made in Forms 1120X and Forms 843 related to taxable years 2006 through 2009, or \$1,562,047,776.00, or such other amount as is legally refundable, plus statutory interest as allowed by law.

D. For inspection and copying as under Rule 34, any insurance agreement under which an insurance business may be liable to satisfy all or part of a possible judgment in the action or to indemnify or reimburse for payments made to satisfy the judgment.

Not applicable.

E. The correct names of the parties to the action.

ExxonMobil believes the parties are correctly named.

F. The name and, if known, address and telephone number of any potential parties to the action.

None.

Dated: October 22, 2018

Respectfully submitted,

THOMPSON & KNIGHT LLP

By: /s/ Emily A. Parker

Emily A. Parker

State Bar No. 15482500

emily.parker@tklaw.com

Mary A. McNulty

State Bar No. 13839680

mary.mculty@tklaw.com

William M. Katz, Jr.

State Bar No. 00791003

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J. Meghan Nylin

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Leonora S. Meyercord

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(202) 626-5800

FAX (202) 626-5801

**ATTORNEYS FOR PLAINTIFF
EXXON MOBIL CORPORATION**

CERTIFICATE OF SERVICE

I certify that on October 22, 2018, a true and correct copy of the foregoing document was served via e-mail on the following counsel of record:

CORY A. JOHNSON
Senior Litigation Counsel
U.S. Department of Justice
P.O. Box 26
Washington, D.C. 20044

JONATHAN L. BLACKER
JOSHUA D. SMELTZER
Trial Attorney, Tax Division
U.S. Department of Justice
717 N. Harwood, Suite 400
Dallas, Texas 75201

/s/ J. Meghan Nylin
J. Meghan Nylin



U.S. Department of Justice

Tax Division

Please reply to: Court of Federal Claims Section
P.O. Box 26
Washington, D.C. 20044
Fax No. 202-514-9440

Trial Attorney :Cory A. Johnson
Attorney's Direct Line: 202-307-3046
Cory.A.Johnson@usdoj.gov

REZ:DIP:CAJohnson

November 5, 2018

Emily A. Parker, Esquire
Thompson & Knight LLP
1722 Routh Street, Suite 1500
Dallas, Texas 75201

Re: *Exxon Mobil v. United States*
Case No. 3:16-cv-02921; N.D. Tex.

Dear Emily:

We are writing to ask that you confirm that you will not assert the default limit of 10 depositions in FRCP 30 with respect to depositions of the deponents listed below:

Stuart McGill
Ron Billings
Steven Kane
Liam Mallon
Phil Dingle
Paige Merkle
Paul Sibal
Ayob Yahaya
David Norwood
Gey Teng Lee
Sri Halena Farid
Renee Gonzalez
Robert Stall
Jeff Sengele
Troy Babin
Jaime Spellings
James Schreiter
Exxon per FRCP 30(b)(6)
Any testifying experts disclosed by Exxon
Barksdale Hortenstine

- 2 -

If you intend to assert the default limit, we will have to seek leave from the Court. Of course, as discovery progresses, there may be others we wish to depose as well. Finally, please confirm which deponents you would be representing and presenting.

If you wish to discuss further, please let me know. Thank you.

Sincerely yours,

s/ Cory A. Johnson

CORY A. JOHNSON
Senior Litigation Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

EXXON MOBIL CORPORATION,)	
)	Case No. 3:16-cv-2921
Plaintiff,)	
)	
v.)	
)	
UNITED STATES OF AMERICA,)	
)	
Defendant.)	

**PLAINTIFF EXXON MOBIL CORPORATION'S
OBJECTIONS AND RESPONSE TO DEFENDANT'S INTERROGATORY NO. 23**

Plaintiff Exxon Mobil Corporation ("ExxonMobil") serves the following objections and response to Interrogatory No. 23 served by Defendant United States of America ("Defendant").

INTERROGATORY

23. Identify the following individuals, and for each individual identified give a detailed description of his/ her role:

(a) all those involved in and responsible for determining how to report for federal income tax purposes items relating to the DFAs and PSCs in your original returns;

(b) all those involved (whether Exxon employees or outside parties) in the consideration of seeking to change the federal income tax treatment of items relating to the DFAs and PSCs, including those involved in originating the idea of changed treatment, examining costs and benefits, computing tax results, and discovering any purported mistaken reporting.

RESPONSE: ExxonMobil objects to this interrogatory because the term "identify," as defined in Defendant's definitions, renders the interrogatory overly broad and unduly

burdensome and seeks information that is irrelevant to the issues in the lawsuit and invades the personal privacy of ExxonMobil's employees and other non-parties. ExxonMobil further objects to this interrogatory because the phrases "all those involved with and responsible for," "all those involved (whether Exxon[Mobil] employees or outside parties) in the consideration of seeking to change," "those involved in originating the idea of changed treatment, examining costs and benefits, computing tax results, and discovering any purported mistaken reporting," and "items relating to the DFAs and PSCs" are vague and ambiguous and render the interrogatory overly broad and unduly burdensome. ExxonMobil previously objected to this interrogatory because Defendant has exceeded the maximum number of interrogatories, including discrete sub-parts, permitted under Federal Rule of Civil Procedure 33(a)(1). Pursuant to the agreed September 21, 2018 Order (Dkt. 96), ExxonMobil is now withdrawing its objection under Federal Rule of Civil Procedure 33(a)(1) and answering this interrogatory.

Without waiving the above objections, ExxonMobil responds to sub-part (a) as follows: The individuals listed below were the U.S. tax advisors assigned to the DFAs and PSCs when they were executed.

Malaysia:

- PM5 – 6/17/1988:
 - Steve Gibson
- PM8 – 6/17/1988
 - Steve Gibson
- PM9 – 12/7/1994
 - Joe Czajkowski
- 1995 PSC - 12/7/1994
 - Joe Czajkowski
- GPSC - 11/17/1998
 - Joe Czajkowski
- NGPSA – 11/17/1998
 - Joe Czajkowski
- 2008 PSC – 6/3/2009
 - Frank Anderson

Qatar:

- RL1 DFA – 12/20/1992
 - Dennis Bloomquist
- RL2 Original DFA - 3/27/2001
 - Troy Babin
- Sponsors' DFA – 7/2/2002
 - Troy Babin
- QG2 – 8/31/2004
 - Troy Babin / Jim Schrieter
- RL3 - 7/11/2005
 - Troy Babin / Jim Schrieter

Without waiving the above objections, ExxonMobil responds to sub-part (b) as follows:

The table below identifies those individuals most involved in the decision to correct the federal income tax reporting of the DFAs and PSCs from mineral leases to purchases—including analyzing why the DFAs and PSCs were purchases, advising of the tax consequences of purchase treatment, computing the tax consequences of purchase treatment, and advising about how to correct the federal income tax reporting from mineral lease to purchase treatment—their titles, and their role. In addition, the privilege logs identify other persons involved.

Name	ExxonMobil Title	Role
Wayne Gardner	Tax Counsel	Advised of the generic consequences of purchase treatment
Troy J. Babin	Manager – Tax Law Division, Upstream Business Services; Senior Tax Counsel, Upstream Business Services	Analyzed why the DFAs and PSCs were purchases; advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment; advised about how to correct the federal income tax reporting from mineral lease to purchase treatment

Denny L. Wright	Senior Tax Counsel – Gas Power & Marketing	Analyzed why the DFAs and PSCs were purchases; reviewed tax consequences of purchase treatment
David J. Bolen	Tax Attorney, Tax Law, Appeals & Litigation (TLAL)	Analyzed why the DFAs and PSCs were purchases; advised of the tax consequences of purchase treatment; reviewed the tax consequences of purchase treatment; advised about how to correct the federal income tax reporting from mineral lease to purchase treatment
Tax Leadership Council (the members of the Tax Leadership Council who were most involved in the decision are listed in this chart)		Recommended that the federal income tax reporting of the DFAs be corrected from mineral leases to purchases; reviewed and analyzed why the DFAs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment
Jaime M. Spellings	Vice President and General Tax Counsel (2010)	Made the decision to correct the federal income tax reporting of the DFAs and PSCs from mineral leases to purchases; reviewed and analyzed why the DFAs and PSCs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment
Charles S. Felice	Upstream General Tax Counsel	Review and analyzed why the DFAs and PSCs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment
Carol A. Havemann	Associate General Tax Counsel	Reviewed and analyzed why the DFAs and PSCs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment

Steve LaSala	Vice president and General Tax Counsel (2007), Associate General Tax Counsel (2000)	Reviewed and analyzed purchase treatment of DFAs and PSCs
James G. Schreiter	Upstream Business Services – Tax	Analyzed why the PSCs were purchases; advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment
Tim C. Raymond	Manager – Tax Law Division	Analyzed why the DFAs and PSCs were purchases
Greg A. Williamson	Upstream Business Services	Analyzed why the PSCs were purchases; advised of the tax consequences of purchase treatment
Jason R. Turpen	Senior Tax Attorney, Tax Attorney, Upstream Business Services – Tax	Analyzed why the DFAs and PSCs were purchases; advised of the tax consequences of purchase treatment
Eric S. Powell	Senior Tax Attorney, Tax Law Appeals and Litigation (TLAL)	Analyzed why the DFAs and PSCs were purchases; advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment
Alton J. Fleming	Senior Finance Manager, Upstream Treasurer	Computed the tax consequences of purchase treatment
Charles T. Fee, Jr.	Assistant General Tax Counsel – Tax Law, Appeals & Litigation	Reviewed and analyzed why the DFAs and PSCs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment
Renee E. Gonzalez	Assistant General Tax Counsel – Tax Law, Appeals & Litigation (TLAL)	Reviewed and analyzed why the DFAs and PSCs were purchases, the tax consequences of purchase treatment, and how to correct the federal income tax reporting from mineral lease to purchase treatment
A.C. Fertitta	Tax Attorney	Analyzed why the PSCs were purchases; advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment of PSCs

Michael A. Wolf	Tax Counsel – Upstream Business Services	Analyzed why the DFAs and PSCs were purchases
Larry Lightfield	Global Direct Tax Process Owner, Tax Reporting & Analysis Center (TRAC)	Computed the tax consequences of purchase treatment for DFAs
Leigh Ann Collins	Tax Accountant, Tax Reporting & Analysis Center (TRAC)	Computed the tax consequences of purchase treatment for DFAs
A.O. Anchondo	Senior Tax Advisor, Tax Reporting & Analysis Center (TRAC)	Computed the tax consequences of purchase treatment for DFAs and PSCs
Tupil V Narasiman	Senior Tax Advisor, Tax Law, Appeals & Litigation (TLAL)	Computed the tax consequences of purchase treatment of PSCs and DFAs
Badri N. Sashti	Tax Advisor, Tax Reporting & Analysis Center (TRAC)	Submitted Qatar TPA 0602 for 2008-2009
Gary Thompson	Federal Domestic Tax Audit Adviser	Submitted Malaysia TPA 0623 for 2008-2009
Anne Agoh	Tax Analyst, Tax Reporting & Analysis Center (TRAC)	Computed the tax consequences of purchase treatment of PSCs
Jeff Sengele	Audit Manager, Tax Reporting & Analysis Center (TRAC)	Reviewed and analyzed why the DFAs and PSCs were purchases and the tax consequences of purchase treatment
Lynn A. Smothers	Income Tax Audit Manager, Tax Reporting & Analysis Center (TRAC)	Reviewed and analyzed why the DFAs and PSCs were purchases and the tax consequences of purchase treatment
Name	Ernst & Young Title	Role
Barksdale Hortenstine	Partner	Advised on the tax treatment of the DFAs and PSCs
Telma Henry	Senior Manager	Advised on the tax treatment of the DFAs and PSCs
Deborah L. Byers	Partner, International Tax Services	Advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment

Chetan Vagholkar	Partner (2008), Senior Manager	Advised of the tax consequences of purchase treatment; computed the tax consequences of purchase treatment
Larry M. Eshleman	Executive Director, Tax	Computed the tax consequences of purchase treatment
Andreas Pecher	Partner and Principal	Computed the tax consequences of purchase treatment
Steve Gertzman	National Director of Federal Tax Accounting	Advised about how to correct the federal income tax reporting from mineral lease to purchase treatment

Respectfully submitted,

THOMPSON & KNIGHT LLP

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CERTIFICATE OF SERVICE

I certify that the foregoing document was served via e-mail on all counsel of record on October 22, 2018.


/s/ J. Meghan Nylin
J. Meghan Nylin

VERIFICATION

My name is Charles S. Felice. I am employed as Upstream General Tax Counsel for ExxonMobil. In this capacity, I have personal knowledge regarding the individuals who made the decision to report the Qatar and Malaysia transactions as mineral leases on ExxonMobil's original returns for federal income tax purposes and those individuals most involved in the decision to correct the federal income tax reporting of those transactions from mineral leases to purchase. As such, I am qualified and authorized to make this verification. I verify that I have read the above interrogatory answers; that the answers were prepared with the assistance and advice of legal counsel; that the information contained in the answers was furnished by various employees of ExxonMobil or was derived from business records maintained by ExxonMobil; that, while I do not have personal knowledge of each of the facts recited in the answers, they are true and correct to the best of my knowledge; and that these answers constitute the corporate response of ExxonMobil.

I declare under penalty of perjury that the foregoing verification is true and correct.

Executed on October 22, 2018.



Charles S. Felice